

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DOLORES A. PACE,

Plaintiff,

v.

GEORGE A. IANNONE,

Defendant.

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OPINION

Civ. No. 10-715 (WHW)

Walls, Senior District Judge

This matter comes before the Court on the December 19, 2011 Report and Recommendation of United States Magistrate Judge Madeline Cox Arleo recommending that the Court dismiss plaintiff Delores A. Pace's Complaint with prejudice.

The Court reviews the Report and Recommendation under 28 U.S.C. § 636 and Local Civil Rule 72.1. The Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge" and must "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b). See L. Civ. R. 72.1(c)(2). No objections have been raised to any part of the Report and Recommendation.

The Court has reviewed the full record in this matter and finds that the Report and Recommendation adequately develops the factual record and applies the correct legal standard. The Report and Recommendation documents the consistent and repeated failure of plaintiff Pace

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to prosecute this action, comply with her discovery obligations, provide this Court with her current address, or otherwise comply with orders of this Court. Applying the six-factor test established by the Third Circuit in Poulis v. State Farm Fire & Casualty Co., 747 F.2d 863, 868 (3d Cir. 1984), the Report and Recommendation concludes that the appropriate sanction for this conduct would be to dismiss the plaintiff's Complaint with prejudice. But, under factor six, the meritoriousness of the claim, the Complaint facially demonstrates that the plaintiff may, but may not necessarily, obtain relief under New Jersey's comparative negligence law. The Court will adopt the Report and Recommendation, but with the determination that the matter is dismissed without prejudice.

It is, on this 9th day of January, 2011:

ORDERED that the December 19, 2011 Report and Recommendation is ADOPTED with the determination that the matter is dismissed without prejudice; and

ORDERED that the Complaint be dismissed without prejudice.

s/ William H. Walls
United States Senior District Judge